

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

K.C. HOPPS, LTD.,)	
)	
Plaintiff,)	CASE NO. 4:20-CV-437
)	
vs.)	
)	
THE CINCINNATI INSURANCE)	
COMPANY,)	
)	
Defendant.)	

DECLARATION OF DANIEL G. LITCHFIELD

I, Daniel G. Litchfield, make this Declaration upon my own personal knowledge and declare the following under penalty of perjury:

1. I am an attorney at Litchfield Cavo LLP and I am authorized to make this affidavit on behalf of Defendant The Cincinnati Insurance Company ("Cincinnati").
2. On October 13, 2021, I informed Plaintiff's counsel, Patrick Stueve, that I had learned there would be an issue with Dr. Armitage's availability during certain of the anticipated days of trial.
3. On October 15, 2021, I informed Mr. Stueve that Dr. Armitage would be available to testify live on October 27, 2021 between 11:00 am and 1:30 pm, CST. This window of availability is dictated by the flights that would permit Dr. Armitage to travel to Kansas City for a day. There are no direct flights between Cleveland and Kansas City. I also proposed, in the event that the live testimony window would not work, that the parties agree that Dr. Armitage would testify by video when called in Cincinnati's case. Mr. Stueve agreed to consult with his co-counsel and follow up with Cincinnati with Plaintiff's position.

EXHIBIT 3

4. On October 18, 2021, Mr. Stueve advised me that Plaintiff did not anticipate that it would complete the presentation of its case-in-chief until late afternoon, Wednesday, October 27. Mr. Stueve also stated that Plaintiff objects to Dr. Armitage testifying out of turn during his window of live availability on October 27, 2021. Mr. Stueve also stated that Plaintiff objects to Dr. Armitage testifying in Cincinnati's case through a live-video feed.

5. Cincinnati at all times intended, and still intends, that Dr. Armitage will present his trial testimony in-person, subject to the additional circumstances/limitations described herein and in Cincinnati's Motion For An Order Allowing Cincinnati's Retained Expert, Dr. Keith Armitage, To Testify Out Of Order At Trial, Or, In The Alternative, An Order Allowing Armitage To Testify Via Zoom Or Similar Electronic Means, Or, In The Alternative, For A Trial Continuance, filed contemporaneously with this Declaration.

Dated: October 20, 2021

s/

Daniel G. Litchfield